

February 2, 2012

Dr. Burl Haar
Minnesota Public Utilities Commission
121 Seventh Place East
Suite 350
St. Paul MN 55101-2147

**Re: In the Matter of the Site Permit Application of EcoHarmony West Wind, LLC, for a
280 MW Large Wind Energy Facility in Fillmore County, Minnesota
PUC Docket No. IP-6688/WS-08-973**

Dear Dr. Haar:

Enclosed for filing in the above-entitled docket is a Petition for Amendment of Site Permit. The Petition requests that the Public Utilities Commission amend the Site Permit for the EcoHarmony West Wind Project to extend the time for the permittee to comply with certain permit requirements.

We are also filing at the same time in the corresponding certificate of need docket, PUC Docket No. IP-6688/CN-08-961, a second Petition, entitled Petition for Determination that Time Extension Is Warranted Without Further Hearing and Recertification. This Petition requests that the Commission approve a change in the in-service date of the project.

We suggest that the Commission combine its consideration of both petitions and issue one Notice of Comment Period. Both matters could then be brought before the Commission for decision at the same meeting.

We have served the petition on the service list and an Affidavit of service is enclosed.

Please add the following person to the service list.

Mr. Bill Smeaton
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Please don't hesitate to contact me or Mr. Smeaton if you have any questions. Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Alan R. Mitchell". The signature is written in a cursive style with a large, stylized "A" and "M".

Alan R. Mitchell

Direct Dial: 612.492.7371

Email: amitchell@fredlaw.com

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

Dr. David C. Boyd
J. Dennis O'Brien
Phyllis Reha
Betsy L. Wergin

Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of
EcoHarmony West Wind, LLC, for a
Site Permit for a 280 MW Large Wind
Energy Facility in Fillmore, County,
Minnesota

MPUC Docket No. IP-6688/WS-08-973

**PETITION FOR AMENDMENT TO
SITE PERMIT**

INTRODUCTION

On February 3, 2010, the Minnesota Public Utilities Commission issued a Site Permit for an up to 280 MW wind project in Fillmore County called the EcoHarmony West Wind Project. The Permittee is EcoHarmony West Wind, LLC, a Minnesota limited liability company.

Two conditions included in the Site Permit required the Permittee to undertake certain action within two years of the date of the issuance of the permit. Condition III.J.4 requires the Permittee to obtain a Power Purchase Agreement (PPA) or other enforceable mechanism for sale of the electricity within two years of issuance. If the Permittee is unable to obtain such an agreement within the two year period, the Permittee must advise the PUC of the reasons for not doing so and the PUC may amend or revoke the permit.

A second condition, paragraph III.K.2, requires the Permittee to complete certain studies and begin construction of the Project within two years of issuance. Again, if the Permittee fails to complete these activities within the allotted time, the Permittee must advise the Commission of the reasons why the studies and construction have not begun.

Because the two-year period will expire on February 3, 2012, the Permittee is hereby advising the Public Utilities Commission that the Permittee has not obtained a Power Purchase Agreement or other enforceable mechanism for sale of the electricity and has not yet completed the requisite pre-construction studies or begun construction. The reasons why the Permittee has been delayed in satisfying these permit terms are explained below. As discussed in this petition, there is good cause for the Commission to amend the permit to provide an additional two years for the Permittee to obtain a PPA or other enforceable mechanism and to commence construction.

PETITION

The Permittee is filing this Petition to request that the Public Utilities Commission exercise its authority to amend the Site Permit for the EcoHarmony West Wind Project to provide the Permittee with an additional two years to obtain a PPA or other enforceable mechanism for sale of the electricity and to commence construction. Not only do the permit terms recognize that the permit may be amended, but the Commission has specific authority under Minnesota Statutes § 216F.04(d) and Minnesota Rules part 7854.1300, subp. 2, to modify and amend a permit for a wind project.

These conditions can be amended either by changing the specific language in conditions III.J.4 and III.K.2 or by simply changing the issuance date of the permit. In other recent permit amendment filings, the Commission's practice has been to change the issuance date of the permit, leave the language of conditions III.J. and III.K.2 the same, thus triggering a new two-year period to comply with the requirements of the permit. *See In the Matter of the Site Permit issued to Comfrey Wind Energy, LLC for a Large Wind Energy Conversion System in Brown and Cottonwood Counties*, MPUC Docket No. IP-6630/WS-07-31, March 11, 2011 Order (approving a two-year extension of time to commence construction due to MISO study process delays) and *In the Matter of the Site Permit of Glacial Ridge Wind, LLC for a 20 Megawatt Large Wind Energy Conversion System in Pope County*, MPUC Docket No. IP-6850/WS-07-1073, June 1, 2011 Order (approving a two-year extension for the same reasons), and *In the Matter of the Site Permit Issued to Lakeswind Power Partners, LLC for up to a 60 Megawatt Large Wind Energy Conversion System for the Lakeswind Power Plant in Becker, Clay and Ottertail Counties*, MPUC Docket No. IP-6603/WS-08-1449, September 6, 2011 Order (approving a two-year extension and other language changes).

In the Comfrey, Glacial Ridge, and Lakeswind matters, the Commission not only established a new issuance date but it also amended condition III.L to establish a new expiration date for the permit. EcoHarmony West Wind also requests that the permit expiration date be amended from 2040 to 2042 to ensure that the permit continues for a thirty year period from the date of issuance of the amended permit.

PROCEDURE

Procedurally, the practice for administering these permit amendment requests has been for the Department of Commerce to establish a public comment period of fifteen days. Once the public comment period expires, Department staff prepares briefing papers for the Commission, summarizing the matter and making a recommendation on the request. In other recent filings, it has taken the Commission about two months from the date of filing to make a final decision. A similar procedure would be appropriate here.

Because the EcoHarmony West Wind Project is larger than 50 MW, the Permittee also applied for and obtained a Certificate of Need (CON) for the project. The PUC issued a CON on

February 19, 2010, in PUC Docket No. IP-6688/WS-08-961. The Order approving the CON noted that the project had an expected in-service date of December 2010. The delays in project construction discussed below have resulted in a commensurate delay in the in-service date.

As a result, EcoHarmony West Wind has filed a request in the CON docket for a determination that the change in the in-service date is acceptable to the Commission without recertification. The rule applicable to the Commission's review of the CON is Minnesota Rules part 7849.0400, subp. 2.H. That rule requires the Commission to make a decision within 45 days of the request. Here, it would be administratively efficient to combine the two petitions, establish one comment period, and make a final decision in both dockets at the same time. Thus, the Permittee has no objection to a slight extension of the 45 day period set forth in the CON rule to allow the two petitions to move forward jointly.

GOOD CAUSE EXISTS TO EXTEND THE PERMIT

The test for whether the Commission should grant the request for an amendment of the permit conditions is whether there is good cause to do so. Minnesota Rules part 7854.1300, subp. 2, provides, "[t]he commission may amend a site permit for an LWECS at any time if the commission has good cause to do so."

As discussed below, there is good cause in this case to extend the permit for a number of reasons. The primary reason for the delay in meeting the permit conditions stems from unforeseen and long delays regarding resolution of issues relating to the project's interconnection to the transmission grid. The delay in resolving these interconnection issues has prevented EcoHarmony from determining its overall project costs or committing to a delivery date for energy produced by the project. These delays have prevented EcoHarmony from being able to finalize project financing or secure a power purchase agreement and EcoHarmony will not be able to do so until these issues are resolved.

Further, there is good cause to continue with the EcoHarmony West Wind Project because it will provide a substantial amount of renewable wind energy, bring economic development to southeastern Minnesota, and utilize the wind resources in an area of the state that has not previously seen wind development. Also, the project has secured a committed and financially viable new owner that has the resources available to complete the remaining development tasks necessary to construct the project. These reasons are examined in more detail below.

A. The Project Has Been Delayed by Ongoing Issues Related to Transmission That Are Beyond the Control of the Permittee.

EcoHarmony has had a long standing interconnection request before the Midwest Independent Transmission System Operator (MISO's) that has still not been resolved. EcoHarmony's interconnection request is MISO Project G746.

In October 2011, MISO filed a Generator Interconnection Agreement for G746 with the Federal Energy Regulatory Commission. Because EcoHarmony did not agree with certain positions taken by MISO in the GIA, including the allocation of certain proposed network upgrade costs and MISO's proposal to move the point of interconnection for the project, it was necessary that FERC resolve these matters. Importantly, resolution of the dispute will not affect whether the project will be able to interconnect to the grid. Instead, the dispute centers primarily on the cost to interconnect. FERC is expected to rule on the matter in the first half of 2012. *See*, FERC Docket No. ER12-165-000.

In addition, the EcoHarmony project has experienced delays because of the large interconnection group restudies underway at MISO. As described in more detail in Comfrey's Petition for an extension of time in PUC Docket No. IP-6630/WS-07-318, FERC's ruling in the Community Wind North case triggered a cascade of interconnection group restudies, beginning with the Group 5 restudy. Now that MISO has completed the restudy of Group 5, it has undertaken a restudy of Definitive Planning Phase (DPP) Cycle 1 projects. EcoHarmony's G746 is among the projects being restudied in DPP1. MISO is expected to finalize the results of this study by March of this year.

The Commission has pending before it a request from West Stevens Wind, LLC, to amend its site permit for a Large Wind Energy Conversion System for a similar reason, that construction has been delayed because delays resolving interconnection issues. *See In the Matter of the Site Permit of West Stevens Wind, LLC for a Large Wind Energy Conversion System*, MPUC Docket No. IP-6824/WS-09-830, Petition to Amend the West Stevens Wind, LLC LWECS Site Permit, filed January 4, 2012. West Stevens provides additional information about the DPP1 restudy in its Petition.

The interconnection issues in question here are significant, and until resolved, which will be soon, EcoHarmony West Wind cannot finalize its project costs or commit to a delivery date for energy produced from the project. The lack of resolution of these transmission issues has made it impossible for EcoHarmony West Wind to secure a PPA or finalize financing to allow construction to move forward to date.

The Commission has recently found that similar situations justified two-year extensions for similar projects. The lack of a resolution of these important transmission issues likewise supports the issuance of an extension for the EcoHarmony West Wind Project.

B. The EcoHarmony West Wind Project Will Provide Significant Benefits to the Local Community and the Entire State.

When it issued a site permit for the project, the Commission determined that the project satisfies state policies and criteria for Large Wind Energy Conversion Systems. Without an extension of the terms of the permit, the EcoHarmony West Wind Project will be unable to continue, and the benefits to be afforded by this project will be lost.

Minnesota Statutes § 216F.03 provides that it is the policy of the state to site LWECS “in an orderly manner compatible with environmental protection, sustainable development, and the efficient use of resources.” The EcoHarmony West Wind Project does all those things. The Permittee will demonstrate compliance with environmental protection measures through the plans and studies that will be submitted as part of the pre-construction activities. All permit conditions will be complied with. The project will harvest the wind resources in southeastern Minnesota in a sustainable manner. The project will utilize state-of-the-art technology and make efficient use of the wind resources in the area.

The project will bring economic benefits to the local community, through employment, lease agreements with landowners, and taxes to local government. This will be lost if the project cannot go forward under a new schedule. In addition, renewable energy that will be generated will help to ensure that utilities can meet their renewable energy milestones.

C. EcoHarmony West Wind, LLC Is Prepared to Go Forward With the Project.

Over the last two years, EcoHarmony West Wind has worked to bring in a new investor that is well-positioned to move forward with the project and complete construction. Gamesa Energy USA, LLC, a U.S. subsidiary of a large global energy company, has recently purchased the ownership interests of EcoHarmony West Wind, LLC and will lead project development going forward. Because EcoHarmony West Wind, LLC, will continue as the project entity, there is no need to transfer the permit for the project. Gamesa Energy now owns EcoHarmony West Wind, LLC, but the Permittee remains the same.

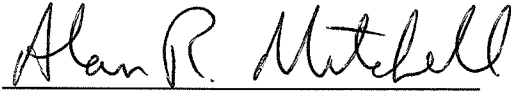
Gamesa Energy is a well-capitalized entity that has the necessary finances and experience to proceed with the EcoHarmony West Wind Project. The company is already proceeding with efforts to complete interconnection requirements, secure financing, obtain a PPA, complete pre-construction studies and finalize the project design. The project is in a position to have satisfied all pre-construction activities within a two-year timeframe.

CONCLUSION

For the above reasons, EcoHarmony West Wind, LLC, respectfully requests that the Public Utilities Commission grant a two-year extension to the company's site permit. There is good cause to allow such an amendment.

Dated: February 2, 2012

Respectfully submitted,

A handwritten signature in black ink that reads "Alan R. Mitchell". The signature is written in a cursive style with a horizontal line underneath the name.

Alan R. Mitchell (#0073829)

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STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARING
OF THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of
EcoHarmony West Wind, LLC for a Site
Permit for a 280 MW Wind Project in Fillmore
County in Southeastern Minnesota
PUC Docket Nos: IP-6688/WS-08-973


AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)


Kristen A. Swenson, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, being duly sworn, says that on the 2nd day of February, 2012, she efiled with the Minnesota Public Utilities Commission the following:

1. **Petition for Amendment of Site Permit; and**
2. **Affidavit of Service.**

A copy has also been served on the service list of record.


Kristen A. Swenson

Subscribed and sworn to before
me this 2nd day of February, 2012.


Notary Public



First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No	OFF_SL_08-973_1
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes	OFF_SL_08-973_1
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Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_08-973_1
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	900 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	OFF_SL_08-973_1
Donald	Miller	DMiller@ecoenergyllc.com	EcoEnergy LLC	725 Main Avenue North P.O. Box 95 Harmony, MN 55939	Paper Service	No	OFF_SL_08-973_1